

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE NEW ORIENTAL EDUCATION &  
TECHNOLOGY GROUP SECURITIES  
LITIGATION

Civil Action No. 12-cv-05724-JGK

**DECLARATION OF KYLE J. MCGEE IN OPPOSITION TO JULIO TARDIO'S  
MOTION FOR RELIEF FROM THE COURT'S LEAD PLAINTIFF ORDER  
PURSUANT TO FED. R. CIV. P. 60(b)(6)**

Pursuant to Local Civil Rule 1.9 and 15 U.S.C. § 1746, I, Kyle J. McGee, declare as follows:

1. I am a member in good standing of the bar of the States of Delaware and New Jersey and am admitted to practice before the U.S. District Courts in those States. I am an associate with the law firm of Grant & Eisenhofer P.A. and I am counsel to Lead Plaintiff Mineworkers' Pension Scheme ("MPS") in the above-captioned case. I submit this declaration, based upon personal knowledge, in opposition to the motion of Julio Tardio for relief from the Court's Pretrial Order No. 1, Dkt. No. 22 ("Lead Plaintiff Order"), pursuant to Fed. R. Civ. P. 60(b)(6).

2. In a telephone conversation on October 4, 2012, I informed Richard W. Gonnello, Esq., of Faruqi & Faruqi, LLP that MPS was then conducting an investigation into the facts alleged in the several complaints that had been filed. I made no representation that MPS would define the class in any particular way.

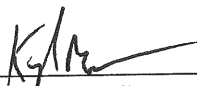
3. Shortly after receiving the letter dated February 6, 2013 and signed by Mr. Gonnello, which is attached as Exhibit D to the Gonnello Decl., I emailed Mr. Gonnello to discuss the issues raised in the correspondence.

4. Because Mr. Gonnello was on vacation, his associate, Francis P. McConville, Esq., contacted me telephonically on February 28, 2013 to discuss those issues. In that conversation, I

explained to Mr. McConville that, after due consideration, MPS decided not to include options traders in the class definition, but that MPS may seek to amend its complaint in the future to include investors not covered by the present class definition, including options traders.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 22, 2013

  
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